

REMARKS

Applicants respectfully request reconsideration and allowance of this application in view of the foregoing amendments and the following remarks.

1. Status of the Claims

Claims 1, 4-12, and 18-34 are pending in the application (claims 2-3 and 13-17 were previously cancelled). Claims 30-34 were allowed and claims 25-29 were indicated as being allowable. Applicants appreciate the indication of allowability. Claim 1 was rejected under 35 U.S.C. §112 as being indefinite. Claims 1, 9, 19, and 21-23 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Anderson (U.S. Patent No. 4,592,485) in view of Kurokawa (U.S. Patent No. 5,230,440) and further in view of Percy (U.S. Patent No. 6,378,324). Claims 10-12 were rejected as allegedly being unpatentable over Anderson in view of Kurokawa and Percy and further in view of Covington (U.S. Patent No. 4,142,863). Claims 4, 5, 7 and 8 were rejected as allegedly being unpatentable over Anderson in view of Kurokawa and Percy and further in view of Kaufman (U.S. Patent No. 5,335,816). Claims 6, 18, 20 and 24 were rejected as allegedly being unpatentable over Anderson in view of Kurokawa, Percy and Kaufman and further in view of Mishina (U.S. Patent No. 5,555,965).

Independent claims 1, 18 and 24 are currently amended to recite that the at least one item is retainable in the freezer compartment for maintaining it at a freezing temperature and in a frozen state. Claim 1 has also been amended to recite "one retention member" instead of "one member," which was deemed indefinite.

2. 35 U.S.C. §112 Rejection

The Examiner rejected claim 1 on the grounds that the term "one member" is indefinite. Claim 1 has been amended to recite "one retention member," which has a clear antecedent, and consequently, the rejection has been overcome.

3. 35 U.S.C. §103(a) Rejections

For the reasons explained below in more detail, claims 1, 4,-12 and 18-23 are patentable because the art relied upon does not teach, suggest or disclose the claimed invention including having a retaining member which retains at least a portion of at least one item in the freezer compartment after removal of the item from the cartridge and removal of the cartridge from the freezer compartment, so that the at least one item is retainable in the freezer compartment for maintaining it at a freezing temperature and in a frozen state.

Anderson, the primary reference in all of the Section 103 rejections, discloses a vending machine that stores meals in a refrigerated compartment 20 and heats the meals in a microwave 100. The meals are stored in a column on a platform 170. Meals are passed into the microwave by opening a segmented door 110 located in the bottom of microwave 100 and raising platform 170. Once a meal is loaded into the microwave, door 110 closes to separate the meal to be heated in microwave 100 from the refrigerated compartment 20. Door 110 has a panel or segment 112. The Examiner contends that segment 112 is a retention member that retains a food item in the refrigerator when a cartridge for storing food items is removed.

As Applicants have previously explained, in Anderson door 110 retains the meal in microwave 100, not in the freezer. In the most recent Office Action, the Examiner points to Fig. 2 of Anderson and states that the heating mechanism (microwave 100) and retaining member (door 110) are insulated in the same freezer compartment by surrounding insulation 16, and thus disposed within the freezer compartment. While microwave 100 is arguably thus "inside" the insulated cabinet 12 in a general sense, it is physically separated from freezer compartment 20 by structural layer 102, absorptive layer 104 and door 110 (door 110 being, of course, closed while microwave 100 is turned on to warm the food item). Nevertheless, to clarify the distinction over Anderson, Applicants have amended claims 1, 18 and 24 to recite that the retention member not only retains the food item within the freezer compartment but also does so in such a manner that the food item is maintainable in an environment at a freezing temperature

and in a frozen state, which clearly could not be the case within an energized microwave oven. Thus, the claimed invention is distinguishable over Anderson.

Further distinguishing the claimed invention is the limitation that the retention member retains the food item in the freezer compartment after the food item is removed from the cartridge when the cartridge is removed from the freezer compartment. The door of Anderson does not perform this function, and there is no suggestion of such a retention member in Kurokawa, which is relied on by the Examiner as disclosing a cartridge. Finally, door 110 and door segment 112 of Anderson do not really "retain" a food item in the sense that the retention member of the invention does so; rather, door segment 112 lifts a food item from a stack of items into the microwave oven, and the food item merely rests on door 110 when it is closed to form the bottom of the oven. In actuality, Anderson teaches away from the presently claimed retention member used to retain an item in a freezer compartment at a freezing temperature and in a frozen state prior to dispensing the item from the freezer compartment and after removal of the cartridge from the freezer compartment, such as when reloading a fresh cartridge of food items.

The newly cited reference, Percy, is directed to a vending machine with a modular environmental control unit, e.g., a refrigeration unit. It is cited simply as disclosing a thermally regulated storage container wherein the temperature can be maintained at a particular temperature, e.g., freezing. Percy teaches nothing about a cartridge or retention member, and does not supply the deficiencies of Anderson and Kurokawa.

Therefore, Anderson, Kurukowa and Percy do not teach or suggest the claimed retention member.

The other art relied on does not remedy the deficiencies of Anderson, Kurokawa and Percy. Covington is directed to a reagent slide dispenser. Kaufman discloses a medical delivery system. Mishina discloses a vending machine for dispensing cylindrical and tetrahedron-shaped objects. Neither Covington nor Kaufman nor Mishina discloses, suggests or provides a reason for a retention member that retains a

food item in a freezer compartment maintained at a freezing temperature after the item is removed from a cartridge and when a cartridge is removed from the freezer compartment. Indeed, the Examiner does not rely on Kurokawa, Covington, Kaufman or Mishina for teaching a retention member that retains a food item in a refrigerator or freezer when the cartridge is removed. Indeed, no such retention member is apparent in any of these four references. Consequently, all of the claims are unobvious and patentable over all of the cited references.

CONCLUSION

In view of the foregoing, all of the rejections have been overcome and claims 1, 4-12, and 18-34 are allowable. An early indication of allowance is solicited.

Respectfully submitted,

By: 

James D. Ryndak
Registration No. 28,754
Attorney for Applicants

Dated: 03/22/2011

RYNDAK & SURI LLP
200 W. Madison Street, Suite 2100
Chicago, IL 60606
312-214-7770 (telephone)
312-214-7715 (facsimile)